Nursing and Midwifery Council

Fitness to Practise Annual Report 1 April 2009 to 31 March 2010

Presented to Parliament pursuant to Article 50(2) of the Nursing and Midwifery Order 2001, as amended by the Nursing and Midwifery (Amendment) Order 2008

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Fitness to Practise annual report
1 April 2009 to 31 March 2010

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Foreword

The Nursing and Midwifery Council registers almost 670,000 nurses and midwives working in the UK. The vast majority act in accordance with the code and consistently meet the high standards expected by the public. Less than 0.2 percent of registered nurses and midwives have their conduct investigated through Fitness to Practise (FtP) hearings. However, when this does happen, they can be assured that the investigation will take place according to the processes determined by the Nursing and Midwifery Order 2001 and the Fitness to Practise Rules.

Despite the very small percentage of nurses and midwives who are referred to us, Fitness to Practise (FtP) is the largest directorate in the NMC and the largest area of expenditure.

2009-2010 was a challenging year for the FtP directorate. The electronic case management system, which has been designed to ensure that the progression of cases happens in accordance with due process, was delayed due to the complex nature of case progression.

Over 600 more cases were investigated in 2009-2010 than in the previous year and over 100 more cases were considered by the Conduct and Competence panel than the previous year. This demonstrates our determination to reduce the backlog of cases, which we have done consistently across the year. We have also continued to improve our processes by recruiting additional staff and ensuring that they are trained to deliver the highest level of service.

We are committed to continual improvement of our services, ensuring that all registered nurses and midwives are fit to provide safe and effective nursing care**,** and that the public know what to do when they feel the care they receive has not been of a satisfactory standard. We will continue to work with employers in order to ensure that they are aware of their responsibilities in ensuring that their employees comply with the code**.**

What is the NMC?

The Nursing and Midwifery Council exists to safeguard the health and wellbeing of the public.

- We register all nurses and midwives and ensure that they are properly qualified and competent to work in the UK.
- We set the standards of education, training and conduct that nurses and midwives need to deliver high quality healthcare consistently throughout their careers.
- We ensure that nurses and midwives keep their skills and knowledge up to date and uphold the standards of their professional code.
- We ensure that midwives are safe to practise by setting rules for their practice and supervision.
- We have fair processes to investigate allegations made against nurses and midwives that their fitness to practise may be impaired.

What is fitness to practise?

We describe fitness to practise as a person's suitability to be on the register without restrictions.

Suitability to be on the register without restrictions includes:

- achieving the standards of proficiency required for entry to and maintenance on the register
- the maintenance of good health and good character to enable safe and effective practice
- adherence to the principles of good practice set out in the code and other guidance provided by the Council

We investigate and, if necessary, take action on substantiated allegations that a nurse or midwife's fitness to practise is impaired (they will not be proven until a committee decides they are).

We receive many complaints about nurses and midwives that do not concern their fitness to practise. When we turn away these complaints, we are not saying they are unjustified or we do not believe them; it is simply that the issues raised do not concern the nurse or midwife's fitness to practise. Often the employer or some other authority can and should resolve these complaints. We cannot act as a form of appeal for people who have been disappointed by the outcome of a local complaints procedure.

How can fitness to practise be impaired?

We are concerned only with allegations that fitness to practise is impaired by:

- misconduct
- lack of competence
- a conviction or caution for a criminal offence
- physical or mental health
- a finding of impairment by another health or social care regulator
- a barring by the Independent Barring Board in England or Wales or Northern Ireland or inclusion in the children's list or adults' list in Scotland (not yet in force).

Failure to comply with the standards set out in the code does not automatically mean that the nurse or midwife's fitness to practise is impaired.

Who can refer an allegation to us?

Anyone can refer an allegation to us about a nurse or midwife's fitness to practise. Some people are under a legal or professional duty to refer nurses or midwives to us: for example, the police are required to report nurses and midwives who have been convicted or cautioned for a criminal offence.

What if the incident occurred abroad or when the person was not registered?

We can consider allegations about conduct or performance that occurred outside the UK or when the nurse or midwife was not registered.

Is there a time limit for raising concerns?

There is no time limit for referring an allegation about fitness to practise but we encourage early referral. This is because it can be difficult to trace witnesses and supporting evidence about events that occurred long ago.

We recommend that employers should refer cases to us when their internal procedures have finished. If internal procedures have to be suspended for a lengthy period, the referral should be made at the point when the procedures are suspended. However where there is an immediate risk to the public, employers should make an immediate referral in order that an interim order (which can result in immediate suspension by the NMC) can be considered.

How are referrals made to Fitness to Practise?

Referrals should be made in writing. We accept referrals in forms that we can transcribe if writing is difficult for the referrer. We will arrange for translation of any referral not made in English.

We need the referrer (person making the allegation) to:

- tell us their name and postal address
- clearly identify the nurse or midwife concerned
- give a clear account of the alleged incidents or behaviour leading to the referral
- give us any relevant documents or other evidence they may have that supports their allegation.

Leaflets for employers and members of the public are available on our website, as are the forms that can be used to make the referral.

What does the NMC do when it receives a referral?

First, our triage team assesses the referral to make sure it identifies a nurse or midwife on our register and that the allegation does concern the person's fitness to practise. Sometimes the triage team will ask the referrer for more information so that we can deal with the case. The triage team can close referrals that are not about people on our register or are not about fitness to practise.

Next, we assign the case to a named caseworker who prepares the case to go to a panel of the Investigating Committee. (Cases of conviction resulting in a custodial sentence go direct to the Conduct and Competence Committee). The caseworker informs the nurse or midwife about the referral and invites them to send a written response to the committee.

Investigating Committee panels consider all the information sent in by both the referrer and the nurse or midwife. Their role is to decide whether there is a case to answer. The panels may ask for some investigations to be carried out to help them decide this question – for example, they may ask for a lawyer's investigation to collect statements and documentary evidence. In cases where a nurse or midwife's health may be impaired, the panel may ask the person to undergo medical testing or examination.

If a panel decides there is no case to answer, the matter is closed. The panel may decide to keep a record of the case for three years so that it can be re-opened if another referral comes in.

If a panel decides there is a case to answer, it can mediate between the parties concerned or refer the case to the Conduct and Competence Committee or the Health Committee. In practice, panels have not used the option to mediate.

Investigating Committee panels also deal with allegations of fraudulent or incorrect entry in the register. The panels decide whether the allegations are proved and, if so, direct the Registrar to remove or amend the entries.

Conduct and Competence Committee panels and **Health Committee** panels decide whether the allegations are proved and, if so, decide on the appropriate sanction.

Panels can work in meetings – using just the paperwork collected in the case; or at hearings – when the NMC case presenter and the nurse or midwife and their representative can call witnesses and argue their points to the panel in person. Hearings must take place in the UK country of the nurse or midwife's registered address (England if the address is outside the UK).

Nurses and midwives facing allegations of impaired fitness to practise are entitled to have their case decided at a hearing. Cases that go to a meeting are those where the person has not requested a hearing, the issues are straightforward and there is no public interest in dealing with them at a hearing.

Conduct and Competence Committee hearings take place in public; Health Committee hearings are held in private.

When panels find that a nurse or midwife's fitness to practise is impaired, a range of sanctions is available for them to apply:

- caution order (can be applied for one to five years)
- conditions of practice order (can be made for between one and three years and must be reviewed by a panel before expiry)
- suspension order (can be made for up to one year and must be reviewed by a panel before expiry)
- striking-off order (no application for restoration can be considered for five years)

The purpose of the sanction is to strike a proportionate balance between the nurse or midwife's interests and the public interest (by which we mean: protecting members of the public; maintaining public confidence in the professions and the regulator; and declaring and upholding proper standards of conduct and performance). The Council has issued indicative sanctions guidance to help panels decide on the appropriate sanction in each case. The guidance is available on our website.

We publish details of all the orders that panels have made in the last three months together with the reasons on our website.

Appeals against the sanction

The nurses and midwives concerned can appeal against the sanction. The appeal period is 28 days. Appeals are heard in the High Court, the Court of Session in Scotland, or the High Court in Northern Ireland, depending on the country of the nurse or midwife's registered address.

Interim orders

All the committees can make interim orders to suspend registration or put in place conditions of practice while the case is being investigated and awaiting a final decision. Before making an interim order, a panel must hold a hearing so that the nurse or midwife can attend – with representation – to explain their point of view about any interim order. Panels can make interim orders for up to 18 months. They must review interim orders after six months and then every three months. If we have not concluded the case within the time specified, we can apply to the High Court (or equivalent court in the other countries of the UK) for an extension. The courts can extend an interim order for up to one year.

Panels can also make interim orders when they make final orders that affect the registration status of the person concerned. This is because final orders do not come into effect until the end of the appeal period or, if the person appeals, until the outcome of the appeal.

We publish on our website details of all the interim orders that panels have made in the last three months together with their reasons.

Observing a hearing

People who wish to attend a hearing can go to our website (www.nmc-uk.org) where we publish details of all hearings open to the public together with details about how to book a place.

Council for Healthcare Regulatory Excellence

The Council for Healthcare Regulatory Excellence (CHRE) is an independent body accountable to Parliament that oversees the work of the regulators of healthcare professionals.

If the CHRE considers any adjudication outcome is unduly lenient and that action is necessary to protect the public, it can refer the case to the courts. We report all final decisions to the CHRE.

The CHRE also gives us feedback on Conduct and Competence Committee and Health Committee panel decisions and reasons. We use this information to improve our case presentation and develop panel skills in the giving of reasons.

We also participate in the CHRE's Fitness to Practise Forum where we have the opportunity to learn from other regulators and understand issues of concern to the CHRE.

In 2009-2010, the CHRE began to audit those cases that were not referred to the Conduct and Competence Committee or Health Committee. The audit highlighted to us areas where we should strengthen our practice.

Panel members

Who sits on the committee panels?

Panel members (chairs and panellists) are a mix of lay people and nurses and midwives. They cannot be members of the Council or employees of the NMC. All panel members are appointed through a competency-based selection process carried out by the Appointments Board, an independent committee of the Council. Panel members are appointed for an initial period of four years and may be re-appointed for up to a further four years.

Chairs of panels can be appointed from within the pool of panel members or by way of external recruitment. In either case, they have to undergo a competency-based selection process, demonstrate significant experience of panel work and undertake further learning and development above the requirements for a panel member.

Which committees do panel members sit on?

Panel members are appointed either to the Investigating Committee; or to the Conduct and Competence Committee or both the Conduct and Competence Committee and the Health Committee. It is not possible to belong to the Investigating Committee and to either of the adjudicating committees.

In 2009, the upper limits for the number of panel members appointed to the Investigating and Health Committees were increased, to allow for sufficient numbers to carry out the fitness to practise functions[1]. The new upper limit for the Investigating Committee is 180 (previously 60), and for the Health Committee 120 (previously 50). The upper limit for the Conduct and Competence Committee remains at 350.

Table 1 – Panel members and committees

Committee	No. of lay panel members	No. of registrant panel members	Total
Investigating	36	45	81
Health	48	41	89
Conduct and Competence	140	52	192

What learning and development do panel members undertake?

Before they can be appointed, all new panel members must successfully complete an induction programme, which takes four and a half days, followed by at least one day observing a panel of the committee to which they have been allocated. The training

[1] SI 2009 No 2894 The Nursing and Midwifery Council (Midwifery and Practice Committees) (Constitution) (Amendment) Rules Order of Council 2009

includes sessions on legislation and processes, equality and diversity, decision-making and giving reasons and questioning skills. In 2009, 184 new panel members undertook the induction training, from which 181 were appointed.

Each new chair must undertake a day's induction to the role of chair followed by up to three days of sitting as a chair supported by an experienced chair sitting as a panel members, before they can sit independently as chair. As well as building on the skills already achieved as a panel member, new chairs learn about leadership of the panel. Four days of chairs' induction training were held in 2009, from which 25 chairs were appointed.

Each year, all panel members undertake at least one day of update learning and development, together with any other training needed because of changes to processes or legislation. During 2009, one update session was provided on four separate occasions and all but 12 panel members attended. Topics included refreshers on decision-making and giving reasons and updates on learning points from CHRE and appeals. In addition, a half-day update session was held for four panellists who had not been able to sit on panels for several months because of ill health, secondment or maternity leave.

Learning and development news is highlighted in the quarterly newsletter *Best Practice*, which is sent to all panel members. During 2009, articles included updates on case law, information about appraisals, updates to changes in processes and information about NMC standards and guidance.

Appraisals

An appraisal process for panellists and chairs was developed during 2008 and 2009. This consists of 360 degree feedback followed by an appraisal meeting between the appraisee and a member of the Appointments Board, to discuss identified strengths and weaknesses and agree future learning and development needs. At the end of February 2010, the process started with the 53 longest-serving chairs and it is anticipated that these appraisals will be completed by the end of July 2010. Panellists' appraisals will start in September 2010.

Looking forward

During 2010, new ways of providing learning and development will be developed. The large number of panel members makes it inefficient to deliver all learning and development in the classroom, although this will still be a significant method. E-learning will be developed for topics appropriate to this type of delivery; and the use of facilitated forum sessions will be piloted towards the end of the coming year.

Stakeholder engagement

We continue to hold regular meetings with the professional bodies representing nurses and midwives who are subject to fitness to practise proceedings.

In summer 2009 we held a series of roadshows for employers, providing information to employers about the fitness to practise process and seeking feedback on their

experience of referring cases to the NMC. Among the 88 participants were employer representatives from the NHS, private and not-for-profit sectors. Their feedback has been hugely valuable in informing the development of new information resources for employers that we will be publishing early in 2010-2011. Further employer events are planned for 2010-2011.

This year, we conducted our first in-depth, qualitative research with participants to the FtP process. Telephone interviews with 21 referrers, witnesses and registrants focused on information and communication needs for participants to the FtP process. The findings from the research have been reflected in new information for employers and witnesses which will be published early in 2010-2011. Next year, we will also be developing information for nurses and midwives who are referred to us, based on the outcomes of the research.

Quality and value for money

Working with suppliers and value for money

We have a range of external suppliers who provide services that support FtP activity. These services include preliminary legal investigations of cases, provision of medical testing, examinations and reports, as well as dedicated legal advice and transcription services to support our public hearings.

In 2009, we reviewed all of our suppliers and performance against their contracts to ensure we were getting best value for money. We approved a new contract for transcription services, and started a tender exercise to test the market for legal advice to panels.

In 2010, we will re-tender for our preliminary legal investigations service, as well as the provision of medical testing and examinations.

Key performance indicators to Council

We have a range of measures that we use to demonstrate how we are performing against our processes and service standards. These measures include the time from receiving a case to its final consideration, the time it takes to consider whether serious cases require an interim order, and the time it takes to progress cases through key parts of our process.

We produce this data monthly, and monitor within the NMC. We also report it to our FtP committee each quarter, and to our Council as part of an organisation-wide suite of performance data.

We have made significant steps in the last 12 months, with a 15 percent improvement on the number of cases being processed in under 15 months (from 52 percent in April 2009, to 69 percent in March 2010). We have also reduced the average number of days to schedule a new interim order from 140 days in April 2009, to just 19 in February 2010. This continues to be one of our main performance measures and we aim to get to 90 percent of cases completed within 15 months by April 2011.

We also look at how long key parts of our processes take, in order to manage our work effectively, provide accurate feedback to all involved, and to continually address quality or other issues.

Protecting the public by considering interim orders that prevent nurses or midwives from working whilst we investigate cases where the allegations are very serious is one such measure. We have to prepare evidence to go before an independent panel, detailing the allegations. We also need to give the nurse or midwife the opportunity to respond or arrange to attend the hearing. Therefore we have a target of 21 days from the initial request to the hearing taking place. We consider the balance of protecting the public with the rights of the nurse or midwife.

We have made very significant improvements in this area in the last 12 months. We have moved from an average of 140 days to schedule these hearings in April 2009 to an average of 19 days at 1 February 2010. This means that we are now achieving the target of 21 days from request for the hearing. We have achieved this by major process changes, and reallocation of staff to ensure this priority activity starts on the day the hearing is requested. We are confident that we will maintain this service standard from now on.

Another area of measurement is the time taken to carry out a legal investigation and return the case for consideration at the Investigating Committee. As a legal investigation takes 13 weeks and the nurse or midwife has a further four weeks of notice of the committee's consideration, we set ourselves a target of 21 weeks for this element of the process.

We have had difficulty achieving this target, with a disappointing average of 95 weeks in February 2010. However, we have been working with our external lawyers to manage longstanding cases through to the committee, and have doubled the number of committees held per month since January 2010. This has resulted in the older cases being pushed through the system, and, as they are progressed, more are measured by this service standard. The result is the measure gets worse as we progress the oldest cases.

We believe this service standard will improve by summer 2010, as the caseload is more normalised in terms of age. We have started some analysis of the impact the oldest cases make on our overall performance and are confident that the next six months will see this indicator come into line with our target.

When a case reaches a hearing, on some occasions it may be necessary to adjourn proceedings. There are a range of causes, including administrative errors, or legal arguments over newly emerging evidence. As there will always be unavoidable or unforeseen reasons to adjourn, we have set ourselves a target of less than 15 percent of hearing days being affected.

We have seen improvements in this area in the last year, though we still have further to go. This measure has improved from a rolling annual average of 25 percent of cases in the period April 2008 to April 2009, to 20 percent in the period January 2009 to January 2010. Our recently introduced electronic case management system has contributed to this improvement and we are closer to a position where the reasons for adjournment are

likely to be due to factors outside of our control, such as requests from registrants or their representatives, or their late submissions of evidence. We aim to continue process improvements and so meet our target within 2010.

Our final measure looks at the proportion of complaints about our processes when compared against the total of the cases with which we are dealing. We have set ourselves a target of less than five percent of cases having a complaint. This is an area where we perform well, with an average of 1.5 percent of case processes being complained about. We continue to review reasons for complaints and feed them into our service improvement work and staff training.

Staffing arrangements and training

All FtP staff have been trained on the new case management system. A number of measures have been taken to improve staff performance and development in 2009-2010, including a new induction programme for new staff and increased mechanisms for communicating with staff and involving them in service improvement activities.

Quality assurance and other roles

In January 2010 we appointed a full time Quality Assurance Manager. She has already started systematically reviewing the outputs from our processes, to ensure we identify areas for further improvement.

We recognise that improvement to our service is an ongoing process, so we have appointed four new posts that will support continuous improvement within FtP. These roles focus exclusively on monitoring quality and performance and managing change to ensure that activities to improve our performance do result in real benefits to our customers.

The head of service improvement is responsible for improving the service received by our customers, including referrers, nurses and midwives, and witnesses to cases. Our new business manager monitors the performance of our external suppliers to ensure that we receive a high quality service and value for money and our quality assurance manager is developing measures to monitor the quality of our service and take action to address any shortfalls in quality. We realise that we will need to adapt our processes and systems to ensure that we are meeting customers' needs. Our systems and processes implementation manager is responsible for managing changes to our systems and processes so that they are implemented in a planned and effective way.

To date, the work has focused on setting up monitoring and reporting mechanisms and engaging staff across FtP in new ways of working. In 2010-2011 we plan to do further work to involve stakeholders in service improvement.

Case management system

In December 2009 we launched the electronic case management system (CMS) that we now use to manage our cases. This system stores all information relating to cases, and prompts users to carry out actions in accordance with our service standards and

timescales. To do this, we have reviewed every one of our processes and letters which has been a major task. Staff have been involved in specifying and testing the system, and training other users.

We are now starting to benefit from more effective and efficient case progression, and better quality outputs. We are also using the data to report on progress and to manage our activity.

As with any complex computer system, there will be ongoing refinements, either as our processes change to match legislation, or as we develop more efficient ways of progressing cases. CMS can accommodate such changes, and we have a programme of quarterly software updates with training to support this.

Equality and diversity data analysis

In 2009, we launched a project to collect data from everyone on our register, in order to understand the make up of the two professions of nursing and midwifery. In common with other public bodies, we asked about six different strands of equality and diversity: age, gender, religion or belief, ethnicity, sexual orientation and disability.

We have commenced a programme of analysis not only of the register, but a comparison of those who are referred to FtP. For each of the strands of data, and at each significant stage of our process, we will compare the proportion of nurses or midwives involved in FtP cases against the overall register.

We have reviewed age and gender so far, and will review ethnicity in summer 2010. The remaining groups will be reviewed later in the year. We will be publishing our findings on our website.

Table 2 – Referrals

The breakdown of males and females who are referred to us:

Gender	Total cases	%
Female	2,058	68.9
Male	683	22.9
Unknown	247	8.3
Grand total	**2,988**	**100.0**

Table 3 – New interim orders

The breakdown of males and females who have new interim orders placed on them:

	Gender				
Interim orders	**F**	**%**	**M**	**%**	**Grand total**
Interim conditions of practice order	75		24		99
Interim suspension order	131		78		209
Grand total	**206**	67	**102**	**33**	**308**

Table 4 – Cautions, conditions of practice and suspension orders

The breakdown of males and females who receive either a caution, conditions of practice or suspension order at the substantive hearing:

	Female	%	Male	%	Total
Caution order	84	72	33	28	117
Conditions of practice	28	90	3	10	31
Suspension order	43	61	27	39	70
Total	155	71	63	29	**218**

Table 5 – Striking off from the register

The breakdown of males and females who are removed from the register as a result of the hearing:

	Female	%	Male	%	Total
Removed	112	58	82	42	**194**

Table 6 – Sanctions by gender

The below table shows that male registrants are more likely to be sanctioned than female registrants

	Numbers on register	% on register	Numbers sanctioned	% sanctioned
Male	73,227	11	33	0.04
Female	592,477	89	84	0.01

Table 7 – Striking off orders by gender

The below table shows that male registrants are more likely to be removed from the register than female registrants

	Numbers on register	% on register	Numbers struck off	% struck off
Male	73,227	11	82	0.112
Female	592,477	89	112	0.0189

Appeals

Nurses and midwives who are struck off the register have a right to appeal that decision in court. Since January 2009, High Court appeals have been exclusively conducted by our in-house lawyers. The team includes a range of experience including 16 barristers and 2 solicitors with higher rights of audience, which means they can present cases in Scotland or other parts of the UK with different legal systems.

Dealing with appeals using our in-house lawyers has a number of advantages for us:

- using external lawyers to defend appeals is a very costly option (in the region of £10,000 for a case). Our in-house legal team costs are far less: the lawyers are already on the payroll and time working on appeals is allocated within the budget. Any costs that are awarded to us, are not allocated within the budget, therefore, any money that we may receive as a result of costs awarded to us is additional, and can be used for other case activity.

- appeals are often most effectively argued by the advocate who presented the case before the FtP panel, whose knowledge of the case is likely to be more extensive than counsel instructed simply to do the appeal.

- knowledge of the history of the case also allows a more objective assessment of the risks of the appeal. External lawyers often work on the assumption that the NMC will want to defend the case at all costs. In fact, there will be often cases where a more pragmatic approach will avoid incurring unnecessary cost and ongoing damage to our reputation. Nearly all cases where a settlement has been achieved by our lawyers have been settled on the basis that the NMC does not pay the nurse or midwife's legal costs.

- the opportunity to undertake High Court advocacy enhances the legal expertise and the reputation of our in-house lawyers, which can in turn be used to manage future cases more effectively and provide excellent value for money, which is important given that our funding comes from nurses' and midwives' registration fees.

The number of appeals is increasing. Over the last year 25 appeals were lodged. Of the 13 that have been concluded five were settled, seven were successfully defended and one was lost. The remaining 12 cases are pending and will go for a decision in 2010.

Restorations

Nurses or midwives who have been struck off (or removed from the register under our previous legislation) can apply to be restored to the register. To do this, they must satisfy a panel of the Conduct and Competence Committee that they are fit to practise. Registrants who have been struck off must wait five years before they can apply for restorations, whilst those removed from the register can re-apply at any stage.

Restoration to the register requires careful consideration and is not granted lightly. As the nurse or midwife has not been able to work in the professions for at least five years, and they must also be able to satisfy a panel that they can re-establish their

competence and practise safely, the number of restorations applications is low. We consider this stringent test a further aspect to our role in ensuring public protection.

In 2009-2010, we received six applications. We heard these applications at Health Committee panels and Conduct and Competence Committee panels. Of these four cases were restored to the register.

Table 8 – Restorations details

Case ref	Date of hearing	Decision	Case type
21359	27/11/2009	Conditions of practice order	HC restoration meeting
21900	17/08/2009	Not restored	Restorations
21901	20/04/2009	Restored	Restorations
22715	05/10/2009	Restored - conditions of practice	Restorations
24805	18/01/2010	Application accepted	CCC restoration hearing
25114	05/02/2010	Rejected	CCC restoration hearing

Investigating Committee fraudulent entry

A panel of the Investigating Committee has the power to amend the register or remove an entry completely if a nurse or midwife has applied using fraudulent information or qualifications. Registrants may appeal against this decision within 28 days, to either the county court, or to the sheriff's court in Scotland. The decision does not take effect until the end of the appeal period, or until any considerations of appeal are completed.

In 2009-2010, five cases were considered. Of those, two were removed.

Table 9 – Fraudulent entry details

Case no.	Date of hearing	Decision
19878	31-Jul-09	Removed
20552	02-Dec-09	Removed

Data analysis

Cases referred to us: (April 2009 to March 2010):

Table 10 – New matters

A total of 2,988 new matters arose between April 2009 and March 2010, of those, 2318 were sent for investigation (77.5 percent).

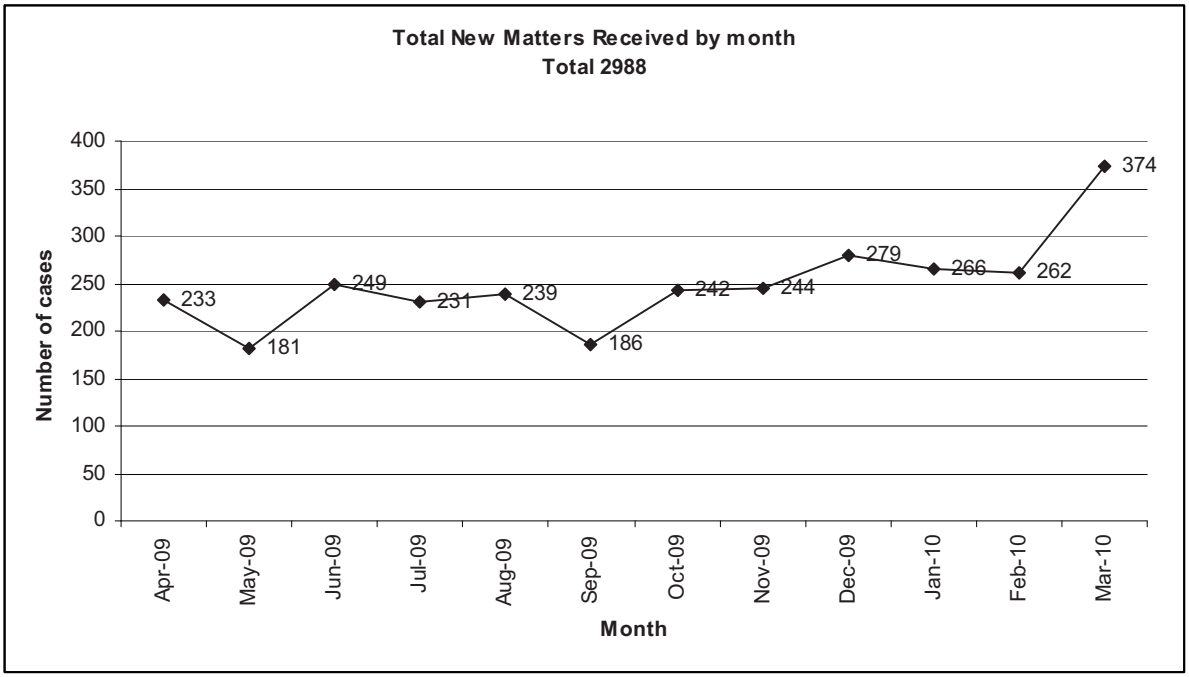

Table 11 – New matters

During the period 1 April 2009 and 31 March 2010, FtP received a total of **2988** new referrals from which 862 new matters were closed. (670 new matters were closed at the Triage stage).

Closed	862
Open	2,126
Total New matters received	**2,988**

Table 12 – By Country of origin

Country	2007-2008		2008-2009		2009-2010	
England	1,255	85%	1,552	88%	2,579	86%
Scotland	123	8%	138	8%	201	7%
Wales	62	4%	50	3%	135	5%
Northern Ireland	37	3%	14	1%	57	2%
Overseas	1	0%	3	0%	12	0%
EU	0	0%	2	0%	4	0%
Total	**1,478**	**100%**	**1,759**	**100%**	**2,988**	**100%**

Table 13 – By referrer type

Source	2007-2008		2008-2009		2009-2010	
Employer	785	53%	847	48%	1,197	40%
Police	429	29%	404	23%	576	19%
Members of the public	131	9%	296	17%	651	22%
Other methods	14	1%	27	2%	58	2%
Other	119	8%	185	11%	506	17%
Total	1,478	100%	1,759	100%	2,988	100%

Table 14 – Investigating Committee outcomes

During the period 2009-2010 the Investigating Committee sat for **199** days considering **2,892** cases.

	No.	%
No case to answer	1,045	36.13
Further Investigation	778	26.90
Refer to CCC	452	15.63
Refer for Interim order	167	5.77
Withdrawn	166	5.74
Refer to HC	102	3.53
Interim order continued	52	1.80
Medical Examination	38	1.31
Interim suspension order	28	0.97
Interim order Revoked	27	0.93
Interim order not necessary	14	0.48
Not heard	11	0.38
Interim conditions of practice order	6	0.21
Adjourned	2	0.07
Removed fraudulent entry	2	0.07
Other	1	0.03
Send request to Registrant for Hearings or Meeting	1	0.03
Total	**2892**	**100**

*Decisions based on the last hearing date held

Table 15 – Investigating Committee Interim orders

Investigating Committee		2009-2010
New	Interim suspension order	218
	Interim conditions of practice order	127
	Interim order not necessary	120
Reviews	Interim order confirmed	458
	Interim order revoked	32

Conduct and Competence Committee panels

During the period 2009-2010 the Conduct and Competence Committee sat for 1,024 days considering 690 cases.

Table 16 – Conduct and Competence Committee allegations

Allegations	%
Dishonesty[2]	15.72
Lack of competence	12.86
Other	11.57
Failure to maintain adequate records	9.57
Maladministration	8.29
Neglect of basic care	7.86
Drugs/drink related offences	5.29
Failure to collaborate with colleagues	4.00
Unsafe clinical practice	3.29
Verbal abuse	2.86
Physical abuse	2.29
Misappropriation	2.14
Inappropriate relationship	2.14
Failure to act in an emergency	1.71
Failure to respect the dignity of colleagues or patients	1.57
Failure to report incidents	1.43
Pornography	1.29
Violence	1.00
Failure to communicate	1.00
Management practices	1.00
Unfit for duty due to influence of drinks/drugs	1.00
Sexual abuse	0.86
Absence without leave	0.57
Failure to disclose previous convictions	0.57
Failure to obtain consent	0.14

Table 17 – Setting of allegations

Setting	%
Agency	1.65
Residential or care home	19.47
NHS	52.64
Prisons	0.83
Private hospital	2.48
Other	22.94
	100

[2] Includes fraud, sleeping on duty, false claims to qualification/registration

Table 18 – Conduct and Competence Committee's interim orders

Conduct and Competence Committee interim orders		2009-2010
New	Interim suspension order	15
	Interim conditions of practice order	2
Reviews*	Interim order confirmed	9

Table 19 – Conduct and Competence Committee outcomes

Decisions taken*:	No. of cases	%
Striking off order	194	28.12
Caution order	117	16.96
Order meeting/hearing	108	15.65
Case closed and no further action	73	10.58
Suspension order	70	10.14
Adjourned	39	5.65
Conditions of practice	31	4.49
Allow current order to expire	12	1.74
Interim suspension order	10	1.45
Withdrawn	6	0.87
Vary the duration of the order	6	0.87
Interim order confirmed	5	0.72
Directions given	4	0.58
Refer to Health Committee	4	0.58
Confirm substantive order	4	0.58
Revoke substantive order	4	0.58
Interim conditions of practice order	1	0.14
Application accepted	1	0.14
Rejected	1	0.14
Total number of cases considered by CCC	**690**	**100**

*Decisions based on the last hearing date held

Health Committee panels

During the period 2009-2010 the Health Committee sat for 106 days considering 235 cases.

Table 20 – Health Committee allegations

Allegation	%
Alcohol	24.27
Physical / mental health	31.72
Drugs	14.89
Other	29.13

Table 21 – Health Committee interim orders

Health committee interim orders		2009-2010
New	Interim suspension order	24
	Interim conditions of practice order	5
	Interim order not necessary	3
Reviews	Interim order confirmed	85
	Revoke interim order	1
	Total	**118**

Table 22 – Health Committee outcomes: Total number of cases considered by the Health Committee

Outcome	No.
Suspension order	55
Conditions of practice order	30
Adjourned	27
Interim order confirmed	21
Order a hearing / meeting	21
Case closed	19
Interim suspension order	12
Confirm substantive order	9
Refer to CCC	8
Striking off order	8
Revoke substantive order	5
Medical testing	3
Vary the time period of the order	3
Withdrawn	3
Allow substantive order to expire	2
Caution order	2
Direction given	2
Interim conditions of practice order	1
Interim order not necessary	1
Refer to PPC	1
Revoke Interim order	1
Terminate suspension with CO	1
	235

*Decisions based on the last hearing date held

Looking forward

The coming year will be one where we continue to build on the improvements we have made over the last 12 months. With our move in early 2009 to purpose-built offices in Aldwych, the electronic case management system, and additional operational staff, we are well placed to concentrate on improving the quality of our work and our customer service. We have a dedicated programme of activities to deliver this throughout 2010.

Like other healthcare regulators, we have a legal duty to report individuals who may pose a risk to vulnerable adults and children to the newly established Independent Safeguarding Authority. This requires us to share sensitive information and we have been reviewing our data security processes to ensure we do this appropriately.

We continue to work in collaboration with the Council for Healthcare Regulatory Excellence. As case activity continues, we will be recruiting selectively more panel members who are either nurses or midwives to enable increased hearings activity. These new panel members and our existing ones will also benefit from continued training, some of which will be delivered in an e-learning environment so they can keep pace with any changes.

Annexe 1

Legacy (old) rules cases

We have a small number of cases that were referred to our predecessor body, the United Kingdom Central Council for Nursing, Midwifery and Health Visiting. Whilst the system for processing these cases is similar to that of the more recently received cases, these legacy cases are far more complex and have been subject to extensive legal investigations or other complicated factors.

As there are only six remaining cases (covering 13 registrants) and they have different possible outcomes under different legislation, we have reported on these separately in the statistical analysis. At the end of March 2010, one of these cases was close to being completed.

Listed cases, hearing dates and outcomes

In 2009-2010, we continued to process legacy cases according to the complexity and legal issues affecting them. Within the year, this activity can be summarised as follows:

- one case (one registrant) was closed at the Health Committee
- three cases (nine registrants) were partially considered – and have ongoing consideration in 2010-2011 – at the Preliminary Proceeding Committee
- three cases (three registrants) had matters considered under the transitional provisions of the rules and are now concluding under the new rules
- two cases (two registrants) are now scheduled for a Health Committee hearing in summer 2010
- one case (two registrants) has been part-heard in a Professional Conduct Committee hearing which will continue into 2010-2011 due to its complexity.

Therefore, in 2009-2010 we progressed 10 legacy cases (relating to 17 registrants). The conclusion of these cases will be reported in 2010-2011 annual report.

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